

**BEFORE**

**THE PUBLIC SERVICE COMMISSION OF**

**SOUTH CAROLINA**

**DOCKET NO. 2018-102-S – ORDER NO. 2019-\_\_\_\_\_**

IN RE: Application of Kiawah River Utility    ) **JOINT PROPOSED ORDER**  
       Company for Approval of Sewer         ) **APPROVING AND ADOPTING**  
       Rates, Terms and Conditions           ) **STIPULATION**

The above-captioned matter is before the Public Service Commission of South Carolina (“Commission”) on the Application for Establishment of Service Area and Establishment of Sewer Rates and Charges filed by Kiawah River Utility Company (“Company” or “KRUC”) on June 21, 2019. KRUC and the South Carolina Office of Regulatory Staff (“ORS”) (collectively the “Parties”, or sometimes individually, “Party”) filed a proposed Stipulation on October 22, 2019 addressing all issues in the case. There were no contested issues, intervenors, or opposition to the Application. Based on careful review and consideration of all materials filed in this Docket and of the Stipulation, the Commission adopts the Stipulation as set forth in detail below.

This matter was initiated on March 27, 2018, when KRUC filed a letter of intent with the Commission. On June 21, 2019, KRUC filed an application for establishment of service area and establishment of sewer rates and charges (“Application”) with the Commission pursuant to S.C. Code Ann. § 58-5-240 and S.C. Code Ann. Regs. 103.512.4.B. On July 12, 2019, KRUC filed a Substitute Exhibit 11 to the Application with the Company’s fully executed performance bond in the amount of \$350,000. On November 19, 2019, KRUC filed a Bond Rider to clarify the type of surety providing the bond.

By letter dated July 12, 2019, the Commission's Docketing Department instructed KRUC to publish a prepared Notice of Filing, one time, in newspapers of general circulation in the area affected by KRUC's Application. The Notice of Filing described the nature of the Application and advised all interested persons of the scheduled proceedings and how to participate in the proceedings as a party of record. The Commission also instructed KRUC to notify directly each customer affected by the Application by mailing a copy of the Notice of Filing. On August 9, 2019 KRUC filed an Affidavit of Publication certifying that the Notice of Filing had been duly published. KRUC filed an affidavit on August 12, 2019 certifying that it had complied with the instructions of the Commission's Docket Department and mailed a copy of the Notice of Filing to all current third-party owners of properties in Kiawah River that are or will be served by KRUC and to the Administrator for Charleston County.

No Petitions to Intervene were filed in this Docket, and ORS became a party per statute. KRUC filed the Direct Testimony of four witnesses-- Lyndell Cummins, Kevin O'Neill, John Guastella, and Gary White-- on September 10, 2019.

Lyndell Cummins is a licensed professional engineer in South Carolina with Thomas & Hutton, the lead civil engineer for Kiawah River. Mr. Cummins was involved in the design drawings and specifications for the wastewater treatment plant for Kiawah River and reviewed the designs with respect to good engineering practices and regulatory requirements prior to certification.

John Guastella testified to his involvement in preparing KRUC's rate study and to the record keeping, accounting, billing, customer service, financial and regulatory services that his company, Guastella Associates, LLC, has contracted with KRUC to provide. Gary White, Vice President of Guastella Associates, also testified to his role in developing KRUC's rate study.

Kevin O'Neill helped negotiate the development agreement with Charleston County that provides the zoning framework for the large planned community of Kiawah River. Mr. O'Neill described the Kiawah River development and provided an overview of the steps taken to ensure that KRUC will be able to operate and how it will be run. These steps included entering three agreements addressed by Mr. O'Neill.

First, KRUC entered an Operator Agreement with M. Agin & Associates, a licensed wastewater operator. Under the Operator Agreement M. Agin & Associates is responsible for the operation and maintenance of the wastewater system and ensuring compliance with all applicable regulations. Second, KRUC executed a Management Agreement with Kiawah River Utility Holdings, LLC ("KRUH"), KRUC's parent, and Guastella Associates, LLC for the latter to handle the financial and managerial aspects of the utility that are not directly involved with the physical operation of the wastewater facilities. Finally, KRUC entered the Amended Memorandum of Understanding ("MOU"), executed along with KRUH and Kiawah River Investments, LLC ("KRI"), KRUH's parent and the developer of Kiawah River. KRI, as the developer, depends upon KRUC to install, operate, and manage the wastewater facilities. Therefore, through the MOU, KRI agrees to advance all necessary funds to KRUC, through KRUH, to cover KRUC's operating deficits until KRUC is financially viable. KRUC filed an application for the approval of the Operator Agreement, Management Agreement, and MOU pursuant to S.C Code Ann. Regs. 103-541 on September 19, 2019.

ORS filed the Direct Testimony and Exhibit of Anthony Sandonato on September 24, 2019. Mr. Sandonato explained ORS's findings relative to the review of KRUC's Application. He addressed ORS's plant inspection, KRUC's compliance with S.C. Code Ann. Regs. 103.512.4.B,

and the three agreements –for operation and maintenance services, management services, and the MOU—that KRUC entered into.

Negotiations between the Parties in this proceeding resulted in a proposed Stipulation filed with the Commission on October 22, 2019.<sup>1</sup> The Parties determined that their interests, as well as the public interest, are best served by the terms and conditions in the Stipulation. By signing the Stipulation, the Parties’ acknowledged their consent to its terms and asserted the terms to be fair and reasonable.

On October 24, 2019, counsel for KRUC filed a request to waive the hearing in this Docket and to submit a joint proposed order.<sup>2</sup> On October 31, 2019, KRUC filed affidavits verifying the testimony of witnesses Cummins, Guastella, and White. On November 4, 2019 KRUC filed a Revised Schedule of Sewer Service, which clarified certain portions of the original Schedule of Sewer Service filed with the Application. On November 4, 2019 ORS also filed an affidavit verifying the testimony of witness Sandonato, and KRUC filed an affidavit verifying the testimony of witness O’Neill.

On November 6, 2019 the Commission granted KRUC’s request to waive the hearing with Order No. 2019-771, noting that the parties reached a stipulation in this matter, and that there were no contested issues, no intervenors, or opposition to the Application.

The sewer rates and charges, provided below, are specified in the Revised Schedule for Sewer Service filed on November 4, 2019, attached to and incorporated as a part of this Order as Order Exhibit 1. KRUC’s proposed monthly rate is \$85 per month per unit paid by customers in advance.

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<sup>1</sup> Exhibit 1 to the Stipulation, the Schedule for Sewer Service, was filed on October 23, 2019. Exhibit 1 to the Stipulation was supplanted by the Revised Schedule for Sewer Service filed on November 4, 2019.

<sup>2</sup> KRUC filed an Amended Request on October 25, 2019 correcting a clerical error in the initial request.

**Table 1: Monthly Flat Rates and Connection Fees**

<b>General Customer Service Group</b>	<b>Monthly Rate per Unit</b>	<b>Monthly Rate per Sq. Ftg.</b>	<b>Connection Fee per Unit</b>	<b>Connection Fee per Sq. Ftg.</b>
Residential	\$85.00		\$4,500.00	
Workforce Housing	\$85.00		\$4,500.00	
Lodge Units	\$56.70		\$3,000.00	
Hotel Units	\$56.70		\$3,000.00	
Commercial		\$0.0567		\$3.00
Recreation Facilities		\$0.0567		\$3.00

Accordingly, we make the following findings of fact:

1. We find that an establishment of service area and sewer rates and charges is necessary, as the area in which KRUC seeks to provide service is not currently served by any other wastewater utility company. We find that the rates and charges agreed to by the Parties are fair and reasonable and will allow KRUC to provide its customers with adequate wastewater service.
2. We find the terms and conditions set forth in the Stipulation are fair and reasonable to the Parties as well as to the KRUC customers that will be affected by the rates and fees approved by this Order.
3. Based on careful review and consideration of the Stipulation and the materials filed in this Docket, the Commission concludes as a matter of law that (i) approval of the Stipulation

is in the public interest and constitutes a reasonable resolution of this proceeding; (ii) the residential and commercial sewer rates and charges agreed to by the Parties and as set forth in Order Exhibit 1 attached hereto are reasonable and fair and should be put into effect after the notice required herein.

4. The Operator Agreement, the Management Agreement, and the Amended Memorandum of Understanding are all reasonably calculated to assure the provision of continuously adequate service and service in a diligent and timely manner with full regulatory compliance and, accordingly, are approved.

**IT IS THEREFORE ORDERED THAT:**

1. The Stipulation and the Revised Schedule for Sewer Service are attached hereto as Order Exhibit 1, accepted into the record without objection, and incorporated into and made part of this Order by reference. Further, we find the Stipulation is in the public interest and constitutes a reasonable resolution of this proceeding and that the proposed rates, fees, and charges are both fair and reasonable and will allow KRUC to provide its customers with adequate wastewater services. We further find that the additional terms and conditions set forth in the Stipulation are reasonable and fair.
2. KRUC must comply with all obligations provided for under the Stipulation.
3. The Company is to provide thirty (30) days' advance notice of the rates to customers of its water and wastewater services prior to the rates and schedules being put into effect for service rendered. The schedules shall be deemed to be filed with the Commission pursuant to S.C. Code Ann. § 58-5-240.
4. The Company shall continue to maintain the current performance bond in the amount of \$350,000 for wastewater operations pursuant to S.C. Code Ann. § 58-5-720.

5. The Company's books and records shall be maintained according to the National Association of Regulatory Utility Commissioners ("NARUC") Uniform System of Accounts. The Company is directed to make any necessary adjustments to its accounting system to conform to the NARUC Uniform System of Accounts.
6. The Operator Agreement, the Management Agreement, and the Amended Memorandum of Understanding are approved.
7. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

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Comer H. Randall, Chairman

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Justin T. Williams, Vice-Chairman

(SEAL)